

Application No. 09/931,974
Amendment in Response to Office Action of June 29, 2004
Docket No. 7226-200

REMARKS

A. Support for Amendments

Support for identifying the gel as "a silicone" gel may be found at page 2, line 5, page 6, line 20, and page 7, lines 3-7.

Support for identifying the loop portion as "a stretchable loop" may be found at page 3, lines 9-11 where "rigid yet stretchable loop portions that have a modulus of elasticity of about 50%, with no stretch memory" are described.

Support for identifying the material as "a composite" may be found on page 1 at lines 15 to 18 where "composite material consisting of two layers" is described.

B. §102(e)/§103(a) Rejection

Claims 4 and 5 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. 6,143,946 (Docter).

According to the Examiner, Docter teaches a therapeutic wrap comprising a hydrogel layer with one side facing a skin surface and the other side adhering to an elastic substrate/carrier. The Examiner believes the carrier may have a loop surface because "[t]he retaining straps are connected to the elastic substrate 12 Via Velcro™ hook and loop fasteners 18" to secure the wrap in place around a person's limb. The Examiner points out Figures, 1, 2, 3 and 5 as well as the disclosure at column 2, lines 26-29 and column 3, lines 8-14.

C. Applicants Response to The Rejection Over U.S. 6,143,946

Applicants' preferred gels are silicone gels, not hydrogels. Silicone gels are known to be hydrophobic. They do not break down or change characteristics in the presence of water or sweat (see the discussion at page 8, lines 2-4). They do not absorb fluids as do the hydrogels of the '946 patent (see the discussion at column 2, lines 42-53).

Applicants' carrier is elastic and supportive. It is the rigid yet stretchable loop portion of a hook and loop fastener (see page 6, line 21 to page 7, line 1). The carrier of the '946 patent is a material such

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as spandex (see column 2, line 25 and 32) which is "slightly elastic" or "relatively elastic" (see column 1, line 61 and col. 2, line 25) and not supportive.

No matter how the therapeutic mat of Docter is secured to a body part, a "slightly elastic" carrier having a hydrogel stuck on one surface can not anticipate or render obvious Applicants' elastic and supportive, continuous two-ply composite where a silicone gel is bonded to a carrier which is the rigid yet stretchable loop portion of a hook and loop fastener, which is contradistinction to the Doctor mat, serves as a support.

D. §103 Rejection Over U.S. 4,991,574 In View of U.S. 6,143,946

Claim 5 is rejected under 35 U.S.C. 103(a) as obvious over U.S. 4,991,574 (Pocknell) in view of U.S. 6,143,946 (Docter).

According to the Examiner, Pocknell teaches a surgical dressing with a layer of silicone gel laminated to an elastic, supportive carrier. The Examiner recognizes that Pocknell does not teach a closure strip that is the hook portion of a hook and loop fastener. The Examiner points out, however, that closure strips are well known in the bandage art for securely fastening bandages around a person's limb, as taught by Docter. The Examiner concludes that it would be obvious to one of ordinary skill in the art at the time the invention was made to provide the bandage of Pocknell with the closure strip of Docter.

E. Applicant's Response to §103 Rejection Over U.S. 4,991,574 In View of U.S. 6,143,946

It is respectfully pointed out that Pocknell's carrier is not "an elastic and supportive" carrier - it is not "a stretchable" carrier. Pocknell's carrier is a thin film of a silicone elastomer. The film has a thickness from about 0.01 cm to about 0.1 cm. Thicker films can be used but the thicker films "... reduce the ability of the gel sheet to conform to the body contour and offer no compensating advantages" (see column 2, lines 36-40). In contrast, Applicants' carrier is elastic and supportive. It is the rigid yet stretchable loop portion of a hook and loop fastener. It has a high modulus of elasticity and no stretch memory.

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F. §103 Rejection Over U.S. 5,674,523 in view of U.S. 6,143,946

Claim 5 is rejected under 35 U.S.C. 103(a) as obvious over U.S. 5,674,523 (Cartmell et al.) in view of U.S. 6,143,946 (Docter).

According to the Examiner, Cartmell et al. teach a bandage comprising a hydrogel layer and an elastic and supportive carrier layer. The Examiner cites column 1, lines 54-60 and Fig. 1. The Examiner notes that Cartmell et al. do not teach a closure strip that is the hook portion of a hook and loop fastener. The Examiner points out closure strips are well known in the bandage art for securely fastening bandages around a person's limb as taught in Docter. Therefore, the Examiner believes it would be obvious to one of ordinary skill in the art at the time the invention was made to provide the bandage of Cartmell et al. with a closure strip for securing the bandage around a person's limb.

G. Applicants' Response to §103(a) Rejection
Over U.S. 5,674,523 in View of U.S. 6,143,946

It is respectfully pointed out that Cartmell et al.'s wound dressing does not have an elastic and supportive carrier layer. The layer 12 identified in Figure 1 is a vapor permeable bacterial barrier layer "preferably formed of a material having sufficient porosity such that the barrier layer readily adheres to the hydrogel layer 14 without an adhesive" (see column 3, lines 61-64). The preferred porous material is a microporous synthetic sheet sold under the trademark Teslin® (see column 4, lines 8-11).

The teaching of Doctor hardly cures the deficiencies of the Cartmell et al. patent which also teaches a hydrogel, not a silicone gel, and which teaches a barrier layer, not an elastic and supportive carrier layer which is the rigid yet stretchable portion of a hook and loop fastener.

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H. Closing

Entry of the amendment is respectfully requested. No new matter is presented.

In view of the amendment of Claim 4 and the above remarks on the deficiencies of the references, it is believed that §102(e) and §103(a) rejections have been overcome. Expedited examination is respectfully requested, particularly in view of the withdrawal of allowability based on the newly found reference. If the Examiner has questions, he is invited to call the undersigned attorney.

An early allowance is respectfully requested.

Respectfully submitted,

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